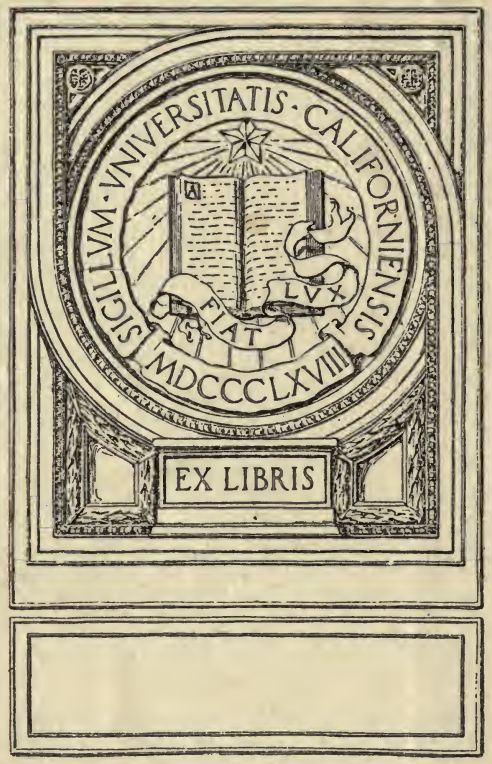
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THE WORK OF THE SECOND STATE LEGISLATURE, 1859-60.*

BY THE PRESIDENT, GEN. JOHN B. SANBORN.

The object of this paper is to present concisely but clearly the work of the Second State Legislature of Minnesota and its influence upon the character and destiny of the State.

That this work was honestly, faithfully, and intelligently performed, cannot be disputed; that it was largely and beneficently influential upon the State's welfare is confidently believed. The legislation enacted at this session established wise policies which have been in the main perpetuated, and laid foundations for prosperous conditions which have never been removed or shaken. The precedents inaugurated have often been followed; the lessons taught will for a long time to come be studied.

The First Legislature, chosen in 1857, met December 2, of that year, took a recess March 25 until June 2, 1858, and finally adjourned August 12. In politics it was largely Democratic in both branches, and the Governor and other State officers were also of that political faith. Under the apportionment, as fixed by the Constitution, the Senate consisted of 37 members and the House of 80, although at the time the total white population of the young State was only about 150,000. The effects of the general financial panic of 1857 were being sorely felt by the people. The general conditions were adverse, and in many instances really distressing. Yet with a liberality amounting to recklessness, and an inconsideration well nigh criminal, this Legislature conducted its work on a scale of magnificent proportions. It made lavish expenditures and enacted much unwise legislation. The

*Read at the monthly meeting of the Executive Council, March 14, 1904. Mr. R. I. Holcombe aided in the preparation of this address, and also read it at this meeting, after introductory remarks by the President.

effect of all this was soon and painfully made manifest, and the people demanded a change.

The election of 1859 for State officers, including members of the Legislature, resulted in a complete victory for the Republicans over the Democrats. Alexander Ramsey was elected governor over our late honored associate, Gen. George L. Becker, by a majority of 3,753, and the other State officers and both branches of the Legislature were Republican. The political canvass of that year had been most spirited. The Democrats were in power in the State and nation, and made the most strenuous endeavors to hold their ground, and especially to control the Legislature, since at its first session many schemes were to be presented for consideration, and there was besides a United States Senator to be elected.

The Republican party was young, but its youth was vigorous and promising. Its members were enthusiastic in their faith and aggressive in their methods to achieve its triumph. The party was fortunate in the selection of the chairman of its State Committee, another of our late associates, Hon. Charles D. Gilfillan. Mr. Gilfillan was not only a very earnest Republican, but a man of great intellect, superior judgment, fine tact, and many other substantial accomplishments. He worked very hard during this campaign, for the opposition had experienced and adroit leaders, but the Democrats lost every contested battle. Every Republican and many Democrats believed that the election and canvass of votes in 1857 (which resulted in the declared election of the Democratic candidates) were fraudulent, and it was Mr. Gilfillan's determination that at the election of 1859 there should be a free vote and an honest count. As a matter of course his political associates seconded his efforts and the result was a great victory. The people seemed especially desirous that a Republican legislature should be chosen to amend and undo the work of the Democrats in the sessions of 1857-8, and Republican members were elected from many Democratic districts.

The Second Legislature convened in the old capitol building at St. Paul, December 7, 1859. The Democratic State officials were still in place, as their terms did not expire until January 2, following. As I have said, both Houses of the Legislature were Republican by a strong majority, and so their officers were Re-

publican. Hon. Amos Coggswell, of Steele county, was elected speaker upon the organization of the House. I was a Republican member of the House, having been elected from St. Paul in the Second representative district. My colleagues from that district were Henry Acker, John B. Olivier, Oscar Stephenson, George Mitsch, and D. A. Robertson. Mr. Acker and myself were the only two Republicans in the House from Ramsey.

Upon the complete organization of the House, I became chairman of the Judiciary Committee. My associates on this committee were William Mitchell, of Winona; George W. Sweet, of Benton; H. E. Mann, of Hennepin; and D. A. Robertson of Ramsey. Of these, Mr. Mitchell was subsequently for many years a judge of the Supreme Court; Mr. Sweet was an old resident of the State, whose wife was of Indian blood; and H. E. Mann was a lawyer of Minneapolis, and at the time a member of the law firm of Cornell and Mann. Subsequently he was clerk of the United States Circuit Court for many years, and removed to St. Paul, where he still resides. Col. D. A. Robertson, of St. Paul, had been bred to the bar, but was not a practicing lawyer. The members of the committee as well as all the other members of the Legislature, with but few exceptions, were comparatively young men; and nearly all were capable, bright, and intelligent, and desirous of doing the State good service.

The situation was, as I have said, most unhappy for the people and the State; and retrenchment and reform in public, as well as in private, affairs were vitally essential. In his message to us the retiring governor, General Sibley, presented the situation and said, "The embarrassed condition of the State finances and impoverished situation of the people imperatively demand retrenchment in expenditures." He knew that the State had afloat nearly $184,000 in scrip and about $250,000 in eight per cent bonds, while there was in the treasury, December 1st, but $1,014.16 in cash. He knew that large sums in taxes were delinquent and could not be collected; that the people were poor, with small resources and smaller incomes. But he also knew that certain expenditures must be made, and that the State, already in favor with home-seekers, must not be allowed to take one backward step in her progress, but must push steadily onward. When, on January 2, 1860, Alexander Ramsey became governor he said

in his inaugural: "A thorough revision of all laws whereby the expenses of town, county, or State governments can be reduced is imperative."

Along these lines, as indicated by the retiring and the new governors, the Legislature, at least the Republican portion, set to work immediately upon its organization. The admonitions of the chief executives were hardly needed. The members themselves knew the situation, and were eager to meet it and improve it. The Republicans had promised the people reforms, and were on their good behavior and trial for the future. The House had a special "Committee on Retrenchment and Reform," designed to point out all dangers to be removed and all benefits to be secured. Of this committee Hon. Henry Acker, of St. Paul, was chairman. As a matter of fact, every member, at least on our side, was a retrencher and reformer. The result was that throughout the entire session the work was done with an eye single to the public welfare. Not a line of class legislation was adopted; no scheme even savoring of graft was countenanced; and amid all of the many bills introduced no "wolf" could find a lair, and no "woodchuck" a burrow.

All of the members worked faithfully and hard, but the labors of the House Judiciary Committee were especially onerous and exacting. I have had the honor to be a member of the Legislature at different times since, and I have never seen so much hard work performed by that body as was accomplished in the second session. As chairman of the Judiciary Committee, I was engaged nearly every night of the eighty days of the session until nearly midnight,—often until in the small hours. The other members of the committee were equally as industrious. Mr. Mann frequently labored with us until a very late hour, then walked to his home in Minneapolis, and walked the distance back the following morning in time to be present at the opening of the daily session at ten o'clock. The reason why so much was exacted of our committee was that nearly every bill introduced was at some stage of its progress referred to us for opinion as to its constitutionality. Our reports were invariably adopted, and many unwise and improper measures were disposed of by our adverse recommendations. The Senate Judiciary Committee, of which Jesse Bishop, of Goodhue county, was chairman, and C. C. An-

drews and Lucas K. Stannard the other members, was doubtless equally hard worked.

It is not practicable, in this paper, to do more than summarize the work accomplished by this Legislature. It may be sufficient—as it is the truth—to say that many of the measures which it enacted were virtually original in their character, and the principles they contained were of such force as precedents that they became fairly fundamental. Their influence was immediately beneficial and has always been valuable in its effects upon our State. Only a very few of the laws passed were modified by judicial decisions; and many of them, in word and letter, are yet on the statute books.

Early in the session, December 15, Hon. Morton S. Wilkinson, Republican, was elected U. S. Senator, over and in place of Gen. James Shields, Democrat. Senator Wilkinson was a staunch Free Soiler. He was an intimate personal friend of Abraham Lincoln, and brought a letter of indorsement from him when he came to Minnesota. In the first numbers of the "Minnesota Pioneer" Wilkinson's professional card appears, and among his references are the names of "Wm. H. Seward, Auburn, N. Y., and Hon. Abe Lincoln, Springfield, Ill." He made an excellent war senator, always upholding the administration, and at one time, as the personal friend of Lincoln, exposed and defeated a conspiracy to prevent his nomination for re-election.

January 2, 1860, the newly elected Republican governor and the other State officers were duly inaugurated and installed, and then the legislative machinery rolled smoothly, and steadily. Party spirit was very high and constantly running higher. In the Senate, during the December part of the session, some of the Republicans became so incensed over certain rulings of Lieut. Gov. Holcombe, the Democratic presiding officer, that they strove to induce the House to impeach him. Our Judiciary Committee promptly decided, and so reported, that the House had no right to interfere with the business of the Senate, suggesting that our aggrieved brethren, who were largely in the majority, might amend their rules so as to make the lieutenant governor do precisely what they wanted him to do. After January 2, Ignatius Donnelly was lieutenant governor, and only Democrats complained then.

About December 16, the Judiciary Committee of the House brought in a new tax bill, the main principles of which may be said to be still in force. It was a complete substitute for the inadequate measure enacted by the previous Legislature. We entitled it, "An Act to provide for the assessment and taxation of all property in this State, and for levying taxes thereon according to its true value in money." All private property, real and personal, was made subject to taxation, excepting $200 worth of personal property to individuals, and excepting stocks in their ownership which had been already listed by the corporations issuing them. Stringent provisions were made for the collection of taxes without favor to any one. A great deal of care was exercised in framing this bill, and it was believed to be as near perfect as possible. Some of the provisions were opposed by the Democrats, chiefly for partisan reasons, as most of us believed, for they lost no opportunity to criticise the dominant party and to attempt to put us "in a hole."

Early in the session Mr. William Sprigg Hall, a prominent Democratic lawyer of St. Paul, and then a member of the Senate, introduced a series of resolutions strongly denunciatory of John Brown's raid on Harper's Ferry and of all its sympathizers. When the resolutions came before the House, I amended them by adding certain clauses condemning the sentiments of Southern members of Congress in favor of dissolving the Union in the event of the election of a Republican President, declaring that the Union ought never in any contingency to be dissolved; and in the end the resolutions, as amended, were adopted by both Houses.

The Legislature enacted a good practicable road law; a law regulating the business of insurance companies; amended the militia law; provided for the organization of agricultural societies; gave lumbermen a lien for their services on the logs and lumber on which they had worked; provided for the formation of companies for mining, smelting, and manufacturing iron, copper, and other minerals, and to encourage these industries, then not well established, levied no tax on their output. It also enacted a stringent law against bribery, and another prohibiting the sale of liquor to the Indians. After much discussion of the subject, it refused to abolish capital punishment. It established interest

rates at seven per cent for legal indebtedness, six per cent for judgments of courts, and at not more than twelve per cent by contract between individuals. At that time those who were compelled to borrow money were glad to get it at twelve per cent per annum. The rate had often been two and three per cent per month.

The most rigid economy was prescribed in every detail of the public expenditure. The governor's annual salary was reduced from $2,500 to $1,500; his private secretary was allowed $400; the lieutenant governor's salary was reduced from $1,500 a year to a per diem; the Secretary of State was given $1,200; the Auditor, Treasurer, and Attorney General, $1,000 each; the clerk of the Supreme Court, and the State Librarian, $600 each; the Supreme Court reporter, $500; and the warden of the Penitentiary, $750. Clerk hire in the offices of the Auditor, Secretary of State, and Treasurer, was limited to $600 in each office. The expenditure for fuel and lights for both houses of the Legislature and the other State offices was fixed at $700 per year. At the time, the fuel used was wood, and the lights chiefly candles. The office of prosecuting attorney for each of the several judicial districts was abolished, and county attorneys were substituted. The Legislature created but one new salaried State office, that of Commissioner of Statistics, who was given $75 per month and allowed $510 for printing his reports. The commissioner was Joseph A. Wheelock, now the Nestor of Northwestern journalism.

The First Legislature had established a system of county organization and government, which had proved very unsatisfactory and quite ineffective. The county government was vested in a Board of Supervisors, composed of one member from each civil township, who were to be elected by the people of the respective townships. The results generally were that the Boards comprised a dozen or more members each, and that there were a divergence and a multiplicity of views among them on every question acted upon. The system proved cumbersome, unwieldly, and expensive, and the people became disgusted with it.

The Second Legislature repealed the law of 1858, and enacted another in its stead, creating by its provisions a Board of County Commissioners. In counties where eight hundred votes

or more had been cast at the previous election, five commissioners were to be chosen by the electors of the entire county; and in counties where less than eight hundred votes had been cast, the Board was to consist of three members. In counties where township organizations had been effected, the governor was to appoint the commissioners. The salaries of the commissioners were fixed at $1.50 a day, when actually engaged in their official duties, with six cents mileage for every mile actually traveled in attending sessions. This was the inauguration of the County Commissioners system, which is practically in operation today, and which has always worked so well.

A township organization was effected providing for town clerks, assessors, and supervisors in each civil township. These officers were each to receive $1.50 a day for services actually rendered, but no town supervisor was to receive more than $20 in a single year. This system was well adapted to conditions as they then existed, and proved generally popular for a long period of time.

The general election of 1857, as I have stated, gave great dissatisfaction to the Republicans. They believed that it had been illegally and fraudulently conducted, with the result that the State officers declared elected had not received a fair majority of the legal votes cast. However this may have been—and of course there were two distinct and differing opinions regarding the fact, —the Second Legislature determined to amend the rather loose election law so as to reduce illegal and fraudulent voting to the minimum in extent, and to prevent it altogether if possible. An entirely new law on this subject was enacted. The most important provision of this law was the requirement of a registration by voters. No person not registered could vote. The manner of establishing the eligibility of voters, of counting the vote, of making returns, and many other paragraphs of the law, are actually in the election laws of today. The Australian ballot system was not adopted until thirty years later.

The statutes relating to common schools were amended, and substantially a new system was adopted. The Chancellor of the State University was made ex-officio State Superintendent of the schools, and his duties were prescribed. No county superintendents were to be chosen. Each civil township, at the annual town

meetings, was to choose a town school superintendent, who might grant teachers' certificates, which were to be valid only in his town. Teachers' certificates from the chairman and secretary of the State Normal School at Winona were to be valid throughout the State. Township superintendents were to be paid by the town supervisors. This law was good only for the time and the prevailing conditions. The present system, in the then sparsely settled condition of many of the counties, was not practicable.

This Legislature passed a new law for the government and regulation of the State University. By its provisions the foundations of the institution were securely laid and its future upbuilding provided for. Its affairs were to be managed and controlled by a Board of Regents, to consist of the governor, lieutenant governor, the chancellor, and five other members, to be appointed by the governor. One section of the act read: "The University shall never be under the control of any religious denomination." No sales of lands belonging to the University were allowed unless ordered by the Board of Regents. When sales were made, the surplus income arising therefrom was to be invested in United States securities or other well established interest-bearing stocks, as a fund for defraying the current expenses of the institution. The chancellor's term of office was to be that of a district judge of the state, and the Legislature was to fix his compensation. The chancellor then in office was the late Rev. Dr. Edward D. Neill.

The Legislature of 1858 had provided for establishing three state normal schools, one to be built every five years, upon the donation of $5,000 in money or lands. There was no imperative or immediate need of these schools, and in view of the general adverse conditions, the limited resources of the state and of its people, it was then practically impossible to provide for them. So the Second Legislature suspended the act on the subject for five years. It was expressly provided, however, that this suspension should not apply to the normal school at Winona, which was already established.

In order to erect the necessary buildings for the Winona Normal, the Board of Directors of that school was empowered to sell all the property that the state had donated to the institution, except so much as might be necessary for other aids to its completion.

The particular attention of the Second Legislature was from the first to the last day of the session directed to the condition of the projected railroads in the state. Under the land grants and the Five Million Loan bill, the grading of certain roads had been commenced a year and more previously. Detached pieces of grading had been made on different lines, when the constructing companies became wholly unable to procure funds to prosecute their work, and it was stopped. The State issued its bonds only upon completed work, and the companies seemed powerless to go ahead. There was great dissatisfaction, amounting to indignation, among the people at this unhappy and damaging condition of affairs. They greatly desired and needed railroads, but the companies with franchises to build them were practically bankrupt and powerless; and the incomplete condition of their roads, and the loan bill, the bonds, etc., constituted menaces and obstacles to the building of other roads by other companies.

There was a wellnigh universal demand that all further aid to the railroads already projected be withheld and refused. The Legislature was compelled to act. The State had issued to the railroad companies its seven per cent bonds to the amount of $2,275,000, and less than fifty miles of grading had been done. The situation was intolerable. After many protracted and spirited discussions of the subject, a joint committee of both Houses reported in favor of a most heroic remedy. Dr. J. H. Stewart, of St. Paul, was chairman of the Senate Committee, and G. K. Cleveland was at the head of the Committee of the House. On the lines of this report, the Legislature, by a concurrent resolution of both houses, submitted to the people an amendment to the State Constitution regarding tax levies, with this important reservation:

> But no law levying a tax or making other provisions for the payment of the interest or principal of the bonds denominated "Minnesota State Railroad Bonds" shall take effect or be in force until such law shall have been submitted to a vote of the people of the State, and adopted by a majority of the electors of the State voting upon the same.

Another amendment to Section 10 of Article 9 of the Constitution was also proposed to the people for their ratification or rejection, and this amendment read:

The credit of the State shall never be given or loaned in aid of any individual, association, or corporation; nor shall there be any further issue of bonds denominated "Minnesota Railroad Bonds" under what purports to be an amendment to Section 10, Article 9, of this Constitution adopted April 15, 1858, which is hereby expunged from the Constitution, saving, excepting and reserving to the State, nevertheless, all rights, remedies, and forfeitures accruing under said amendment.

The land grant railroad companies, as security for the State bonds which they had received, had issued and delivered to the State *their* bonds, which were secured by deeds of trust on the lands donated them. Default had been made in the payment of interest on these bonds, and the trustees under the trust deeds had failed to foreclose on them, as they were directed to do. The Legislature, therefore, empowered the governor to foreclose them and to bid them in for the State upon their sale. Subsequently this action was taken by the chief executive in many instances.

Both of the proposed amendments to the Constitution were adopted by the people at the presidential election in 1860, by an overwhelming majority. The vote in favor of the expunging amendment was 19,308; against, 710. After about twenty years of discussion on the subject, a compromise was effected with the holders of the bonds, and they were paid fifty cents on the dollar on their claims. The action of the Legislature and the people in the so-called repudiation of the bonds apparently never impaired the credit of the State in the slightest degree. Two years after the legislature adjourned, work on the old St. Paul and Pacific railroad was commenced, and the same year it was completed between the capital and St. Anthony. Nearly all the main lines now in the state were projected and a great portion of them built before the alleged "stain of repudiation" was removed. Railroad-building was carried on in Minnesota during the dark days of the War of the Rebellion, while it was wholly suspended in other Northwestern states.

In pursuance of its policy of rigid retrenchment and economy, the Legislature reformed the composition of that body itself. Under the apportionment made by the First Legislature, the House was composed of 80 and the Senate of 39 members, a total of 119. By a new apportionment the Second Legislature reduced the total membership to 63, or 21 in the Senate and 42

in the House, a total reduction of 56 members. At the same time legislative sessions were reduced to sixty days for regular sessions, and thirty days for special sessions. This reform was effected by the force of an act providing that members should not be paid for a longer time. The First Legislature, including the adjourned session from July 2 to August 12, 1858, had met for about 150 days. The second was in session for 80 days.

One very practical result of this Legislature's work was a great reduction of the State's expenses. As shown by the reports still of record, the expenditures for 1859 had been about $281,400, leaving, as I have said, a balance in the treasury subject to draft of $1,014.16. The total disbursements from the State treasury from December 1, 1859, to January 1, 1861,—thirteen months—was $138,846.84. The reduction in the State's expenses in 1860 over those of 1859 was thus about $142,500, a very large sum at that time under all the circumstances. In 1860 there were probably not in the State twenty men worth $50,000 each.

By a joint resolution of both houses, originally introduced by Senator C. C. Andrews, the State's representatives in Congress were instructed to vote for a national homestead law, which would give to each actual settler, after an occupation of five years, 160 acres of the public land. A little more than a year thereafter the homestead law was enacted.

Another joint resolution demanded the removal of the Winnebago Indians from the State, and the opening to white settlement of their reservation in Blue Earth county. The removal was not effected, however, until in 1863.

A memorial to Congress asked for the acquisition, by treaty with the Chippewas, of the lower part of the Red River valley, and the opening of the territory acquired to settlement. The treaty was made on the part of the government by Governor Ramsey in 1863, and the adoption of the memorial referred to was the first authoritative and important action taken in the matter.

Another memorial to Congress, introduced by Representative William Nettleton, was adopted, asking for the establishment of lighthouses at "Beaver Bay, the Grand Portage, and the mouth of the Pigeon river," all on the Minnesota coast of lake Superior.

No lighthouses had been erected in that quarter before that time. The memorial recited that during the season of 1859 "four steamboats had made regular trips" to the Minnesota ports named, and that "more than forty sailing crafts" had been engaged in fishing and coasting. It was further stated that the prospects were that this commerce would be increased, because of the important and significant fact that the abundant evidences of the existence of valuable mines and mineral deposits along and near the lake was already engaging the attention of immigrants and capitalists.

It may with propriety be said by one of its humblest members that the personnel of the Second Legislature was of high order. Almost without exception, the members were men of intelligence, character, and righteous purpose. Their work was performed under the influence of unselfish and patriotic impulses. In after years they exemplified their dispositions by right living, by conspicuous and valuable public service, and by heroic and gallant endeavor on the battlefield. Some of them became members of Congress; others held judicial, diplomatic, and other responsible positions under the Federal and State authority. In the War of the Rebellion, many served with high rank and distinction, some coming out of that conflict with the stars of a general, while others gave their blood and their lives that the Union might live and not die.

Of the members of the Senate, Dr. Jacob H. Stewart was surgeon of the First Minnesota regiment, and subsequently mayor of St. Paul for two or three terms and member of Congress. Michael Cook became major of the Tenth Minnesota, and was mortally wounded at the battle of Nashville. Robert N. McLaren was colonel of the Second Minnesota Cavalry, and was brevetted brigadier general; after the war he was collector of internal revenue, United States marshal, etc. John T. Averill was lieutenant colonel of the Sixth Minnesota, and was brevetted a brigadier; and after the war he served four years in Congress. Henry C. Rogers became lieutenant colonel of the Eighth Minnesota, and died from wounds received in the "Battle of the Cedars," near Murfreesboro, Tenn. Alonzo J. Edgerton was a captain in the Tenth Minnesota, and colonel of a regiment of

colored troops; and after the war he was a judge of the United States District Court, U. S. senator from Minnesota, and governor of South Dakota. Christopher C. Andrews became colonel of the Third Minnesota, and was promoted to brigadier and brevet major general, and in time of peace represented the government as minister to Sweden and consul general to Brazil. Oscar Taylor was a captain in the Minnesota Mounted Rangers. John H. Stevens was always a prominent and useful citizen and one of our best associates.

Of the House, John B. Sanborn was colonel of the Fourth Minnesota regiment, and became a brevet major general. Dr. Moody C. Tolman was a surgeon of the Second Minnesota regiment. William Mitchell served nineteen years on our Supreme Bench, and was an able and eminent jurist. William Pfaender was a lieutenant in the First Minnesota Battery at Shiloh, became a lieutenant colonel of one of our cavalry regiments, and after the war served two years as State Treasurer. John B. Olivier was a good soldier in the Eighth Minnesota regiment.

But for the disastrous fact that the year after its adjournment the War of the Rebellion came, the valuable work of the Legislature of 1860 would have been more apparent. As the condition was, however, the work was serviceable, for the State was able to meet the emergencies thrust upon it, which it would have been sorely pressed to do had the over-liberal, if not reckless and extravagant, policy of the First Legislature been continued by the Second.

The great value of the work of the Legislature of 1860 was that it established sound and safe policies for the government of the commonwealth, which, in the main, have ever since been followed. Its actions have often served as precedents and been cited as proper models by subsequent Legislatures. The result is that Minnesota, after the most bountiful expenditures in aid of her institutions and her people, is, and for a long time has been, in a most enviable condition financially, meeting all demands upon her treasury at maturity.

The progress and development of the State have been unexampled. No other State in the Union has such a record in these respects. In forty years, or from 1860 to 1900, our popu-

lation increased from 172,000 to 1,751,000; the taxable value of property from about $30,000,000 to $786,869,809; and the number of miles of railway from none to 7,000. An important factor in the promotion of this admirable condition has been the system of laws under which we have lived and whose foundation was laid by the Second Legislature. The labors of the session were performed with the single purpose of promoting the public welfare, not alone for the then present, but for the future, and the consummation was most happy. A valuable and glorious ending crowned a season of hard and faithful work.

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